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ABSTRACT

Recognizing the need for a new approach to the problem of federal/state jurisdictional overlaps in delivery of services to Indians, the Bureau of Education for the Handicapped contracted with the National Association of State Boards of Education and Indian Education Training, Inc. to conduct a series of national and regional conferences which would identify problem areas, make recommendations, establish linkages, and create communication networks among the major providers of educational services to handicapped Indian children. A national conference was held in Washington, D.C. in November, 1977, which brought together knowledgeable representatives from Indian tribes and a number of federal and state agencies. These experts discussed the problems confronting the provision of a free, appropriate public education to handicapped Indian children and identified five broad areas of concern: child-find, due process, evaluation and testing, training and program development, and support services. These issues were examined in detail by state and federal agency personnel, representatives of Indian tribes, and advocates at the regional conferences held later in the year. Findings of the regional conferences were summarized and 11 recommendations were specified. (Author/AN)

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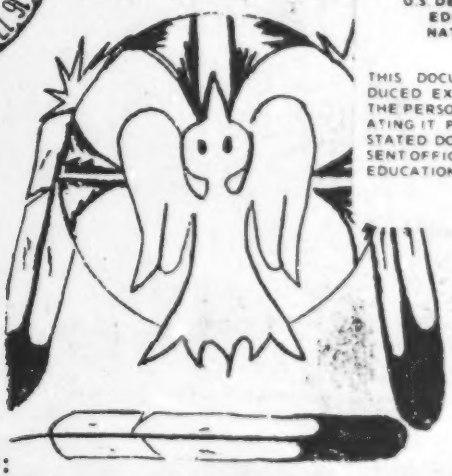

U.S. DEPARTMENT OF HEALTH, EDUCATION & WELFARE
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RC 012273

Prepared by:
The National Association of State Boards of Education
and
Indian Education Training, Inc.

This report is dedicated to
DAN RINGLEHEIM,
who tirelessly and selflessly advocated
for the
protection of the rights of American Indian and
Alaskan Native handicapped children

This work was performed under contract with the U.S. Office of Education, Department of Health, Education and Welfare. Points of view or opinions stated do not necessarily represent the official Office of Education position or policy.

1980

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EXECUTIVE SUMMARY

The difficulties presently encountered in providing a "free, appropriate public education" to handicapped Indian children (as mandated by P.L. 94-142) have roots in the history of Indian education, and particularly in the jurisdictional ambiguity that results from the Indians' unique status as a "nation within a nation."

Unlike other minority groups, American Indians have a trust relationship with the federal government (as defined by treaty) and are therefore eligible to receive services from the federal government as well as from their home state. One result of this jurisdictional overlap is that there are frequent gaps in the delivery of services to Indians, just as there are frequent duplications.

Recognizing the need for a new approach to this situation, the Bureau of Education for the Handicapped contracted with the National Association of State Boards of Education and Indian Education Training, Inc. to conduct a series of national and regional conferences which would (a) identify problem areas (b) make recommendations and (c) establish linkages and create communication networks among the major providers of educational services to handicapped Indian children.

A national conference was held in Washington, D.C. in November, 1977, bringing together knowledgable representatives from Indian tribes and a number of federal and state agencies. These experts discussed the problems confronting the provision of a free, appropriate public education to handicapped Indian children, and identified five broad areas of concern: (a) child-find (b) due process (c) evaluation and testing (d) training and program development (e) support services.

These issues were examined in detail by state and federal agency personnel, representatives of Indian tribes, and advocates at the regional conferences held later in the year. This report contains a summary of their findings, and a series of recommendations based on what they learned.

It should be noted, however, that because of the sensitive nature of the subject matter, and because many of those attending the conferences felt that the need for services far exceeded the present capabilities of the service delivery systems to meet those needs, there was an emotional tone to the meetings which cannot be ignored. This report necessarily reflects some of the frustrations of those involved, as well as their hopes.

THE EDUCATION OF AMERICAN INDIANS: AN HISTORICAL PERSPECTIVE

As Europeans settled America, education became the primary method used to "civilize" the Indian. In 1784 the U.S. government signed the first treaty that promised educational services to the various tribes. Over the next seventy years many other treaties followed which contained vague and ill-defined promises to educate Indian children, but these provisions were rarely implemented by the federal government. Such education as existed was usually carried out by missionaries who looked to the federal government for funding.

In 1824, the Bureau of Indian Affairs (BIA) was created as part of the War Department to supervise and regulate Indian affairs. Seven years later Chief Justice Marshall ruled that the Indians' "relation to the United States resembles that of a ward to his guardian."

That same attitude was evident in 1872 in a statement issued by Francis C. Walker, the Commissioner of BIA:

> No one will rejoice more heartily than the present Commissioner when the Indians of this country cease to be in a position to dictate, in any form or degree, to the government, when in fact, the last hostile tribe becomes reduced to the condition of suppliants for charity. (*Nations Within A Nation*, p. 22.)

Government schools were created in the early 1870's with the purpose of teaching a trade to the Indians and breaking up tribal life. Though the BIA was transferred to the Department of the Interior in 1849, old army buildings were used as schools and army officers took on the duties of educators.

In 1887 the Compulsory Indian Education Act was passed in another effort to assimilate the Indian into the white man's culture. The government established boarding schools where Indian children could be indoctrinated into the Anglo-Ameri-

can culture. They were separated from their parents and tribes, and were forbidden to speak their native language. Military discipline prevailed, even within boarding schools run by missionaries.

In 1890 the Supreme Court ruled against the expenditure of federal funds for missionary schools. This left the education of Indians primarily in the hands of the U.S. government, with boarding schools serving as the dominant mode of education until the 1930's.

Federal responsibility for the education of Indian children was further increased by the Indian Citizenship Act of 1924. It gave more recognition to the Indians, and subsequent treaties and legislation included educational provisions. However, the federal government continued to pass on this responsibility to religious orders, which were under contracts to provide school services. It is noteworthy that at this time 95% of all Indians who attended these schools returned to the reservations after completing their education; the drive to Europeanize the Indian through schooling had failed completely.

1928 signalled the end of federal control of Indian education with the publication of the Meriam report—the result of a study of federal administration of the Indians by the Brookings Institute, and named for the director of the project, Lewis M. Meriam. The report exposed the outmoded teaching methods, primitive housing facilities for the students, and staff cruelties toward the Indian child.

The federal government had for some time been looking to the states to take on the responsibility of educating the Indians, just as they were responsible for non-Indians. John Collier, the Commissioner of BIA at that time, believed that Indians would be better served by public schools, for he considered integration to be essential if Indians were ever to enter the mainstream of American life.

His policy was put into effect through the Johnson-O'Malley Act of 1934, a statute which authorized the federal government to contract with the states for the purposes of providing education, medical attention, agricultural assistance and social services for Indians. Prior to this act, BIA contracted

with individual school districts for the purpose of enrolling federally-connected Indian students.

In 1939, five years after the passage of Johnson-O'Malley, only four states had chosen to participate in this contractual arrangement; by 1957 that number had risen to 24, and since 1960, more than 70% of all Indian children have been attending public schools.

During the 1950's and 1960's a number of federal programs were enacted which presumably increased the chances for an Indian child to have an adequate education. In 1953 the Federal Impact Aid Laws (P.L.8-874 and P.L.81-815) were amended to provide financial aid to public school districts located near non-taxable Indian lands. The Elementary and Secondary Education Act (P.L.89-10) followed in 1965; Title I provides federal aid to educationally deprived children in economically depressed areas. The Adult Education Act (P.L.89-750) was passed the following year with a provision for grants to the states to be used in the development of education programs for Indian adults.

Although it was certainly unintended, one of the results of this rash of programs was to blur the lines of responsibility for educating Indians between the federal government and the states. This confusion grew as more laws were passed which were designed to help the states help the Indians, and remains one of the main problems in administering Indian education programs today.

In the 1970's a number of new federal initiatives added to this jurisdictional ambiguity. The passage of the Indian Education Act of 1972 (P.L.92-318) created the Office of Indian Education within the U.S. Office of Education. The purpose of the law was to improve educational services for Indians by requiring their participation in decision-making, and to provide financial assistance to education agencies involved in programs for Indians. Title VIII of the Native American Programs Act of 1974 (P.L.93-644) authorized the Secretary of HEW to provide funds to community-sponsored Headstart programs for Indians.

In 1975, federal policies for Indians expanded into another previously neglected area. In addition to providing funding

to the states, the government legislated greater involvement of Indians in the development and implementation of educational programs. The Indian Self-Determination and Educational Assistance Act (P.L.92-318) calls for the funding of educational facilities which shall be used in ways that the Indians themselves determine. This signalled another move away from direct federal jurisdiction of Native Americans, and resulted in some improvements. But it has also exacerbated the uncoordinated series of educational policies that involve several agencies of federal, state and local governments, and greatly affects the way American Indians are educated today.

THE EDUCATION OF AMERICAN INDIANS TODAY

Perhaps the main problem encountered in the present-day system of Indian education is the absence of any clear distinction between the responsibilities of the federal government and those of the states.

Some state departments of education have taken the position that their responsibility for Indian students is identical to that for non-Indian students. It can only be taken away when a particular child is enrolled in a BIA school.

In other states, the issue is not so clear. Here, the responsibility is assumed to be a federal one unless a particular child is enrolled in a public school. This has created problems, because until 1977, it was BIA policy that Indian students could attend BIA schools only when public school programs were unavailable. (*Code of Federal Regulations, Title 25-E part 31.1a.*) In 1977 that policy was changed so that any student eligible for BIA services could attend a BIA school on request.

In some states the BIA and public school system jointly operate what are known as cooperative schools. These schools have shared jurisdiction over pupils located within the same school building, but they frequently have difficulty defining federal and state program responsibility.

Since BIA is a federal agency with no state education jurisdiction, it has individual BIA schools but no local education agencies. There is no line authority from the BIA director to education staff in the field. Local agency superintendents have no authority to take emergency action and must go through a complex appeals process to implement local policy.

The net result of these jurisdictional overlaps and ambiguities is an educational system which frequently falls short of providing even the average Indian child with an appropriate education. And the problem is only compounded when it comes to educating the Indian child who is also handicapped.

THE EDUCATION OF HANDICAPPED INDIAN CHILDREN

In 1975, the Education for All Handicapped Children Act (P.L.94-142) was signed into law. It guarantees the right of all American children to a "free, appropriate public education" by requiring the states to provide educational services to all handicapped children and allocated funds for that purpose.

The Senate report (94-168) which accompanied its version of the bill specifically addressed the needs of American Indians:

> It is the intent of the Committee that all requirements applied to state and local education agencies respecting eligibility and application shall apply to the Department of the Interior and that all benefits and protections provided for handicapped children served by state and local agencies shall also be provided to handicapped children served by the Department of the Interior.

This special emphasis on educating the Indian handicapped within the BIA school system was clearly needed. A study made by the General Accounting Office entitled "Concerted Effort Needed to Improve Indian Education," stated that "BIA was not operating its own program for providing special education for handicapped Indian children, even though

studies indicate that Indian children suffer from a higher-than-average incidence of hearing loss, vision difficulties, and other handicaps." (*He Will Lift Up His Head*, p. 30.)

Critics of the Bureau of Indian Affairs—particularly the Indians themselves—were simply trying to assure themselves that the intent of Congress would not become swallowed up in the BIA's internal problems. As the Special Assistant to the American Indian Policy Review Commission observed, "The Bureau of Indian Affairs has become a massive bureaucracy operating from a complex and contradictory manual that has not been updated in nearly ten years. It has no adequate system for reporting to Congress or Indian tribes how monies are being spent or whether they are fulfilling tribal needs and the intent of Congress." (*Nations Within a Nation*, p. 23.)

These words were written in 1975—the year P.L. 94-142 was passed, and the year that the U.S. Office of Education reported that "out of an estimated 19,500 handicapped children attending BIA schools only 4500, or 23%, were receiving services." (*He Will Lift Up His Head*, p. 29.)

THE NATIONAL AND REGIONAL CONFERENCES

In the spring of 1977, the Bureau of Education for the Handicapped assumed a leadership role in addressing the problem. Realizing that an information shortage existed and a coherent strategy for providing appropriate services to Indian handicapped children was lacking, officials at the BEH decided to sponsor a series of meetings which would bring together knowledgable persons in the field to discuss the issues and make recommendations.

Planning for the conferences began in the fall of 1977. The Bureau of Education for the Handicapped decided that the National Association of State Boards of Education, and Indian Education Training, Inc., would jointly plan and run the workshops and the presentations of the conferences.

All three organizations perceived a need to untangle three central questions:

- What are the implications of P.L. 94-142 for Indian students?
- If Indian students are eligible for services through both the BIA and their own state, who will be responsible for which services?
- Can new lines of communication be opened between Indians and state education organizations, and between state and federal agencies as well?

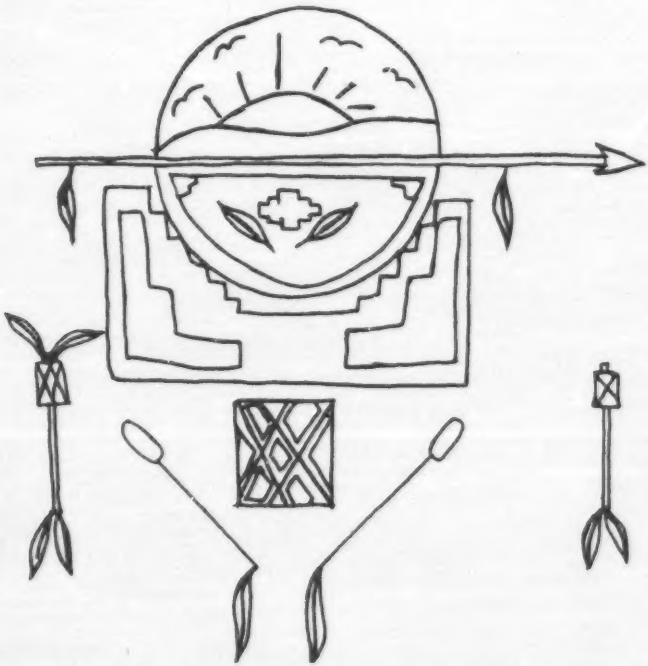
It was decided that these questions could best be answered by bringing together representatives of all those groups and agencies involved, and a national conference was scheduled to be held in Washington, D.C., in November, 1977. It brought together some fifty people who were recognized national leaders in Indian education. Their task was to define the issues and to establish workable formats for the workshops and training sessions that would be featured at subsequent regional conferences.

Five broad areas of concern were outlined at the Washington conference—child find, due process, evaluation and testing, program development and training, and support services.

These issues provided the focus for the efforts of those attending a series of regional conferences held later in the year. San Francisco, Denver, New Orleans, Seattle, Minneapolis, and Albuquerque were selected as sites because of their proximity to large Indian populations.

As in the national conference, representatives from a broad spectrum of interests and disciplines were encouraged to attend. Participants included members from a number of Indian tribes; state education agencies; local education agencies; state legislators; state Boards of Education; Indian controlled schools; BIA contract schools; Congressional staff members; the Office of Indian Education; the Bureau of Education for the Handicapped; Indian Health Service; Head-Start; advocate groups.

What follows is a narrative digest of the many discussions that took place.



CHILD FIND

Jurisdictional Overlap

Perhaps the most perplexing single problem in identifying handicapped Indian children is one of jurisdiction. At both the national and regional conferences participants cited the lack of any clear arrangements between the BIA and the various states as to who, exactly, is responsible for locating those children who will need special education programs during their school years.

This jurisdictional ambiguity is especially acute for youngsters living on or near reservations. In many cases no one knows whether a child will be enrolled in the public or federal system until the first day of school. Indians living within areas administered by the BIA *theoretically* have the choice of attending either the public or BIA school, but this is a choice in theory only. If even half those eligible opted for the BIA schools, the existing facilities and staff could not begin to accommodate them.

Parents who have assumed that their child would be attending the nearby BIA school frequently learn at the last minute that there isn't enough space. This type of situation occurs with such depressing regularity because the responsibility for making an accurate count of pre-school children has never been clearly defined. In some parts of the country both the BIA and the local school district make the count, and their figures are often at odds. In other areas each assumes the other is doing the job and it ends up not being done at all.

Fortunately, a trend is beginning to develop in some states toward a delineation of responsibility between the BIA and local school districts. In some instances the arrangements for locating children are collaborative. In others, the responsibility is assigned to one of the agencies with the proviso that the other can use the information once it has been collected. Although these arrangements are by no means perfect, they are nonetheless an improvement over an administrative vacuum in which each agency assumes the other must be doing the job.

Sharing Information

An already unwieldy situation becomes even more complicated in trying to identify and provide services for handicapped Indian children. To state and BIA educational systems are added their respective social services and health branches—at least in theory. Project Headstart and the Indian Health Service may enter the picture—or they may not. Conference participants painted a picture of a multiplying number of agencies becoming involved, each without a clear idea of its own responsibilities.

Moreover, instead of increasing the amount of information transmitted, such multiple agency involvement tended to have the opposite effect. Conferees cited many examples of breakdowns and blockages in communication. They noted that in some extreme cases as many as eight different agencies will collect information, then fail to share it with each other. It is not uncommon for one agency to gather information which has been collected and coded by another the previous year.

Some agencies use U.S. census figures. Others use their own or those gathered by the BIA. Rarely do these figures agree. And even in states which have sophisticated computer systems to assist in locating handicapped children, the BIA is frequently left to its own resources simply because the necessary arrangements to use the computers have never been worked out.

Another problem area is associated with the Indian Health Service (IHS). Although it is supposed to maintain records of persons with birth defects and other potentially handicapping conditions—thus becoming a prime source of valuable information—IHS lacks the personnel to keep records up to date. The records that do exist are seldom kept in a central office; this is largely the result of an IHS practice of contracting with civilian doctors in places where their own doctors are in short supply—as they are practically everywhere. To combat this situation, many conferees urged that paraprofessional staff be used to maintain existing records, as well as to actively seek out any pertinent information other agencies may have at their disposal.

Within the BIA itself there is a problem in communications. BIA social services and BIA education might share the same agency building, but they are on different administrative tracks. The amount of information passing from one branch to the other is spotty at best, and when it does happen it usually passes from one staff member to another—the result of individual concern, not BIA policy. And, not surprisingly, the responsibilities of each department toward the handicapped child are seldom clearly defined.

There are other impediments to the sharing of information. Until January 1978, for example, IHS, worried about the privacy requirements of the Buckley Act, was reluctant to share its data with BIA education. A memorandum of agreement between IHS and BIA to permit this exchange has been worked out, but there is no similar agreement between IHS and Headstart programs. Most conference participants felt that this was especially unfortunate, since Headstart could play a crucial role in identifying handicapped children before they enter school, and many conferees mentioned a fear of violating the Buckley Amendment on the privacy issue as a principal reason for the excessive caution demonstrated by all agencies when it comes to sharing their data.

Tribal Involvement

One of the recurring themes at the regional conferences was the importance of demonstrating to Indian parents that special education programs can indeed benefit children with special problems. However, this must be done in the face of a certain amount of skepticism on the part of many Indian parents, many of whom resist the idea of special education because of its unfortunate association with past abuses.

A number of tribal representatives at the regional conferences reported that, until fairly recently, Indian children identified as handicapped were often sent away to residential institutions which were too far away to allow parental visits. Although this is an infrequent occurrence today, it was noted that many Indian parents still believe that if they tell anyone they have a handicapped child, they will (in effect) lose that child altogether.

It is also true that in many Indian communities certain potentially disabling diseases—such as *otitis media* (which

can cause deafness) and trachoma have become so commonplace that people no longer view them as handicapping conditions. There is also the tendency to regard emotionally disturbed children as youngsters who are simply discipline problems and who don't really need special education. Add to this the fact that many Indian youngsters have been inappropriately placed in special classes because of difficulties with English, and you have the basis for a considerable amount of Indian resistance to special education. This substantially reduces the role that Indian parents and tribal members might play in identifying children with potentially disabling conditions. However, most conferees agreed that any visible evidence of success in the field of special education would help to compensate for past abuses, and help to convince parents that there are positive reasons for notifying schools or IHS of their children's handicaps.

There was also general agreement that parents and concerned tribal members must be encouraged to participate at a much broader and deeper level than is presently the case. Tribal organizations—particularly health and education groups—should be involved at the advocacy level. Such participation should be geared toward increasing awareness among Indians about the nature of handicapping conditions, and alerting them to the steps that can be taken to meet the needs of the disabled.

A number of conferees also noted that it is not uncommon for tribal members to know a great deal about laws which primarily affect Indians, yet know very little about laws such as P.L. 94-142 which affect the general public as well. Hope was expressed that once parents and key tribal members understand the ramifications of P.L. 94-142, advocacy groups could be formed which might join forces with their counterparts in non-Indian communities, thereby forging a bond which would be helpful to both.

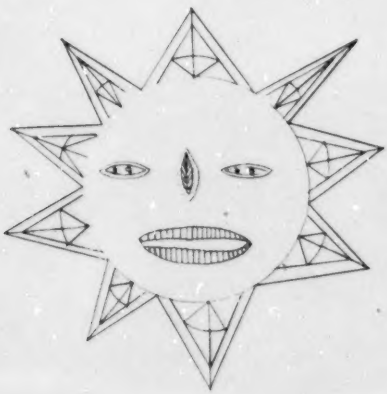
Other Problems

Conference participants also raised a number of other issues in the child-find process.

- There is a shortage of trained personnel and a lack of

good materials to train these personnel to recognize and evaluate handicapping conditions.

- There are a number of Indian migrant children who might be eligible for special education if they could be located. The fact that they move so often makes it difficult to maintain centralized records and further complicates the determination of who is responsible for providing the necessary services.
- The process of identifying handicapped children in isolated areas is difficult and expensive. Responsible agencies must face that fact and make the necessary adjustments to make sure this occurs.
- Regular classroom teachers and teacher's aides need more training to help them identify children with potentially disabling conditions. Children who are not diagnosed as needing special attention at an early age often go through school without getting the special education they are entitled to. The situation is exacerbated in many cases by teachers who have little or no experience in dealing with Indian cultures.
- In many areas children who have already been identified as needing special education are still waiting to enroll in programs which could help them. This seriously reduces the incentive to locate more.



DUE PROCESS

> "The State shall assure that . . . procedures are established for consultation with individuals involved in or concerned with the education of handicapped children, including handicapped individuals and parents or guardians of handicapped children, and that there are public hearings, adequate notice of such hearings, and an opportunity for comment available to the general public prior to the adoption of the policies, programs, and procedures required pursuant to the provisions of this section . . ."
>
> —Section 612(7) of P.L. 94-142

Understanding Due Process

The due process requirements of P.L. 94-142 provides for a system of appeals and hearings that presumably maximizes the chance of a fair decision when the rights of the various groups come into conflict. However, this system can only work when both students, parents, and the schools understand their rights under the safeguards provided by P.L. 94-142.

Conferees reported that most Indian parents have little understanding of their rights under the present educational system. They do not expect professional educators to consult them regarding the most appropriate education for their children, and rarely volunteer any opinions on the matter.

Although BIA schools usually have advisory boards composed of Indian parents, these advisory boards wield little power in the overall system; and in boarding schools, the distance between school and home usually precludes parents from taking an active role.

The same situation is true in the public school system. Conferees reported that most Indian parents feel uncomfortable dealing with the "white man's school" and are hesitant about participating, even when such participation would be welcome. Although some Indian parents have been active in federal Indian programs within individual schools, this involvement has not extended to an assertion of rights within the larger educational system.

Because of this history of minimal parental involvement, conference participants felt that a significantly greater attempt must be made to inform the Indian community of their legal rights. At the present time the usual procedure is to post a list of rights—without explanation—on a community bulletin board, where they usually go unseen or uncomprehended by those who might be affected. Conferees urged that both the rights themselves and the reasons behind them be explained in detail at local community meetings.

It is clear that the due process sections of P.L. 94-142 will not work the way they were intended unless parents understand them. In some cases this may mean translating the material into an Indian language. More often it only means translating the legalese into comprehensible English. It was further urged that these explanations extend to school staff members, including classroom teachers, many of whom are unfamiliar with the meaning or intent of due process.

Surrogate Parents

Another frequently encountered problem is that of surrogate parents. Many Indian children live with adults with whom they share an extended family relationship—uncles, aunts, cousins, grandparents, etc. Sometimes they live with adults who are not relatives at all, in relationships defined by tribal custom, and recognized as "legal" by tribal members—though not necessarily by the states.

Conferees warned that until the issue of what constitutes a "legal" relationship is resolved, surrogate parents will continue to be reluctant to exercise their rights under due process, since it may mean getting involved in complicated, and perhaps costly, legal issues. Conferees emphasized that surrogate parents need to know what their rights are, while schools need to understand the importance of these traditional tribal relationships.

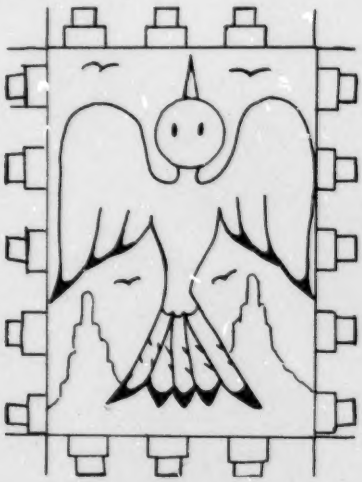
Hearing Officers

In most places there is a serious shortage of Indian hearing officers, and in more remote areas an absence of any trained officer at all. The various tribes and inter-tribal organizaitons have not generally been involved in the selection of candidates for hearing officers rosters. There is there-

fore a very real fear among Indians that their appeals will be heard by someone with little or no understanding of their culture or the problems they encounter in dealing with the white man's world. Objectivity does not exist in a vacuum; it requires information and understanding. Most conferees believed that Indian confidence in the protection offered by due process would substantially increase if at least some members of the hearing panel understood what it meant to be an Indian child.

Boarding Schools

The boarding schools operated by BIA present a number of logistical problems in addition to those found in public and BIA day schools. By definition, parents of these children are not readily available to discuss issues or present testimony. Many live in remote rural areas where there is neither a telephone or mail delivery. The due process procedures are almost impossible to carry out over the course of a semester when parents who do not read or write pick up their mail once a week at a trading post. None of the conference participants provided an answer to this dilemma, but there was general agreement that BIA needs to develop a system for providing educational services to handicapped Indian children who attend the boarding schools.



EVALUATION AND TESTING

Parental Involvement

In the area of evaluation and testing there is again the need to compensate for the unfortunate history of Indian education. In the past, according to conferees, many classes labeled "special education" were in fact simply slow tracks. Children were placed in such classes because they scored poorly on tests conceived by a different culture and written in a language that wasn't always entirely familiar.

There is a resulting resistance among Indian parents to participate actively in the evaluation and testing process. They will sometimes withhold permission to test their children because they are certain it is simply an act of discrimination.

When permission is granted it often comes from a feeling of powerlessness, rather than from any belief that it will be helpful to the child. Conference participants urged that greater emphasis be placed on the fact that parental involvement is an essential step in correctly diagnosing a child's abilities, and not merely a token exercise in participatory democracy.

Tribal Involvement

One helpful step toward a more open dialogue between schools and parents could be an increased involvement of tribal education groups. If they were convinced of the benefits of evaluation they could encourage parents toward greater participation. Community health representatives and community workers could also be involved.

All of this would require training—of parents, tribal leaders, community health workers. A workable system of referrals could then be worked out between these groups and the schools. However, most conferees seem to feel that increased tribal participation would only come about if the cultural bias of most existing tests was eliminated, and replaced by assessment techniques which are appropriate for the Indian child.

Boarding Schools

Parents of boarding school students have many of the same problems described earlier in the section on due process.

For years the catch-all phrase "social problems" has been used in referring children to boarding schools, and it covers children who are genuinely emotionally disturbed, as well as children who have no outstanding problems at all. In some BIA areas more than 50% of all children being evaluated are classified as needing special education. This is many times the national average even for minorities and almost certainly in error. Participants at the conferences agreed that BIA needs to develop more precise definitions for some of the children placed in boarding schools if this problem is to be eliminated.

Jurisdictional Overlap

Here again there is the problem of a lack of any clearly fixed responsibility as to who should handle the evaluation procedures. Sometimes this jurisdictional ambiguity results in multiple testing. Sometimes it results in no testing at all

This situation can only be alleviated through regional services districts, or by combining resources through cooperative agreements. In some states cooperative teams have already been established. In others, it is left up to individual districts to work out their own cooperative arrangements. Usually it is the state education agency or the BIA area office that is in the best position to know where the resources are located. Similiar cooperative planning and sharing of information is needed between the BIA and public schools since many Indians move back and forth between the two systems.

TRAINING AND PROGRAM DEVELOPMENT

The ultimate success of current child-find programs, evaluation and testing procedures, and the guarantees of due process depends to a large degree on the effectiveness of the special education programs themselves. Although the negative aspects of the history of Indian education have been mentioned often in this report, many conferees believed that Indians *will* support programs that produce positive results. Clearly, however, such positive results will not be attained in the absence of adequate staff, facilities, and training to run the programs the way they ought to be run.

Personnel Shortages

School administrators at the conferences noted that a major barrier in isolated reservation areas is that it is extremely difficult to attract special education teachers. Salaries tend to be low, and in some reservation school communities there is no available housing. One consequence is that in many communities the sentiment exists that it is pointless to launch recruitment drives because there aren't enough facilities to take care of those who might be hired.

A second problem is the high turnover rate among teachers coming from the Anglo-American culture; the difficulties involved in adjusting to another culture, and to the isolation of many Indian communities has prompted many qualified special education teachers to return to mainstream America after a single tour of duty on the reservation.

One obvious solution is to begin extensive training programs for Indians who live in these remote communities. Many conferees urged that IHS and regional universities set aside more training slots for special education diagnosticians and teachers—especially special vocational education teachers—which would be filled by people from the reservations. Another suggestion was to provide training in special education to Indian teachers who are presently working in regular classrooms.

While schools are waiting for local people to be trained, there is a need to develop recruitment programs that offer incentives to special education teachers. These could be in

the form of higher salaries, some sort of fringe benefits, or simply the chance to make a real difference in the lives of children who need all the help they can get.

Another possibility mentioned at the conferences is to make certification standards more flexible for teachers working in isolated communities, and to emphasize the training of paraprofessionals.

Facilities Shortages

Apart from personnel needs, many of the smaller schools do not have the space for specialized programs. One result noted during the conferences is that children in need of special education may be thrown together in a single classroom without regard for their individual needs, so many parents feel that their child, though handicapped, is better off in a regular classroom, without special services.

Most reservation schools have almost no taxable property and therefore no bonding capacity. This qualifies them for federal construction funds under P.L. 815 and Title II of the Indian Self-Determination Act (P.L. 93-638) but appropriations for both acts have been minimal. In addition, many of the smaller schools are over forty years old, and have architectural barriers which exclude a number of handicapped children from easy access.

The problems of developing individualized education programs (IEP's) for handicapped children within these schools are complex and expensive, and aggravated by a chronic unpredictability of funds. To solve them will require careful planning, and the coordination of resources between BIA and nearby public schools.

Both systems usually have extensive teacher aide programs, and members of the regional conferences strongly recommended that these aides be given training in special education, even if it requires giving them released time from their other activities. The same course was urged for the many paraprofessionals employed by Project Headstart. Without such training there is a danger that handicapped children in their preschool years will be turned away because the paraprofessionals will have no idea how to work with them.

Miscellaneous

Some other course of action recommended by the various regional conferences include:

- the need to develop special education curricula that is compatible with maintaining cultural identity;
- that special education programs be extended into the summer months when staff and facilities are in greater supply;
- the importance of doing follow-up work with students leaving the system;
- the need to train and assist the parents of handicapped children to improve life at home and to get more parental involvement in the design of IEP's.

SUPPORT SERVICES

Jurisdictional Overlap

There are potentially so many service providers for Indians—especially federally connected Indians—that it is frequently difficult to fix responsibilities. As simple a matter as a school physical for Indian children can create minor chaos. The local education agency doesn't do the examination because they think it is being done or should be done by the Indian Health Service. IHS doesn't do it because they assume it's being handled through special funds such as Johnson-O'Malley. The people in the Johnson-O'Malley program are waiting for the local education agency to handle it. As one conferee noted, "Support services for Indians are frequently reminiscent of a chair with ten legs and no seat."

Both state and local education agencies need to know the full range of services to which Indian children are entitled. They also need to know which of those services are actually delivered. A child may have a right to have glasses, orthopedic aids, or a wheelchair, but in many areas these items are in short supply.

Some states don't provide equal services to Indians in public schools because they think it's a federal responsibility. Many states have the basic provisions of P.L. 94-142 built into

existing state laws, but in other states these requirements are altogether new. The innovative nature of the new requirements can add to the confusion, but it can also provide the impetus for the kind of coordinated planning that has been missing until now.

This planning must include the difficult question of who pays for what, and when. In legal terms it can be defined simply: Indian children are entitled to all services and benefits going to other children, but they may also be entitled to additional federal services because they are Indians. Sometimes these other services exist on paper but not in fact. In some regions of the country they don't even exist on paper. Conferees agreed that the situation isn't likely to change very much until BIA begins to coordinate its own education and social service efforts—at the national policy level, in area offices, and at the local field level. When this is accomplished agreements can be worked out between BIA and the states for delivery of support services.

Relationships between IHS and state and local medical services also need to be defined. This is particularly crucial in isolated areas where services of any kind are minimal. The various health agencies also need to work together with social service agencies to provide transportation, wheelchairs, orthopedic aids, and other such equipment that handicapped children need.

Miscellaneous

Conference participants also pointed out a number of other issues that deserve attention if support services are to reach the children they're supposed to reach.

- There is a need for greater cooperation on a department level between the Departments of Interior and HEW. When this occurs, there will be a greater chance that the spirit of working together will filter down to the local level.
- States should draw up a comprehensive list of all related services from federal, state and local programs so that people will know who to go to for what.

- When representatives of the tribes and various states get together to work out agreements, they should be talking about nothing but special education. The introduction of highly charged issues such as land or water rights virtually guarantees that no agreements will be worked out.
- Although various agencies have a share of responsibility for providing support services to Indian migrant children, those responsibilities are not fixed, nor clearly communicated, and there is little pooling of information.
- There are serious problems in establishing inter-agency linkages in residential child care facilities. New agreements must be worked out.
- In many states the Headstart programs don't know whether to go to BIA or the state education agencies for support services for handicapped children. Responsibilities must be defined, and this information disseminated.

RECOMMENDATIONS

1. An essential first step in working through jurisdictional confusion must be a written and clearly drawn working arrangement between BIA and State Departments of Education. In order to give the agreement policy-making authority, it must be negotiated at a high administrative level—the chief state school officer and the BIA area director—but it must also include the state director of special education and the BIA area director of special education. They are the people who will have to carry out the agreement and overcome obstacles on a school district and agency level. There can be no one model agreement that all states and areas follow. Each region has special problems and circumstances that must be taken into account.

2. There must be a Policy Agreement on the Cabinet level between HEW and the Department of Interior that will make it legal and practical to draw up local functional plans that will complement each other.

3. Once the individual states and the BIA have agreed on

their areas of responsibility and operation, clear roles must be defined for Indian Health Service, BIA Social Services, and State Social Service Organizations.

4. Clients receiving Social Services ought to know what services they are entitled to, who offers them, and where they can be found. Ideally, every community, however small, would have a directory that would tell them what services to expect, and who to go to for what. This will require extensive community liaison work, and cannot be accomplished with one massive printing.

5. Tribal staff members should serve as links in the community education process. They will need additional information and training—both on the federal laws, and the handicapped laws for the corresponding state. They will need to be familiar with the BIA plan for their areas, as well as their state plan.

6. Individuals who now work in programs for handicapped Indian children should be involved in training local or indigenous personnel. They are an essential link between federal and state programs and local communities. They can describe what special programs for the handicapped can accomplish.

7. Indian parents of handicapped children can form part of the base for developing Indian advocates among the parents. They have to date not been widely involved in advocacy programs on either a state or local level. The notable exceptions have been those parents whose children attend some of the new Indian contract schools for the handicapped. Existing Indian education staff members also need training and encouragement so they can bring Indian parents together with existing advocacy groups. It seems certain that the bonds between parents of handicapped children can be stronger than the differences between Indian and non-Indian.

8. Federal and state agencies need to share their information systems. There is a need to develop a data gathering system which would allow an easy exchange of information between agencies. This recommendation includes all related state systems, BIA education, BIA social services, and IHS.

There should also be active coordination between Indian programs and migrant programs, particularly at the regional and local levels.

9. Agencies collecting information must realize the drawbacks in the U.S. census figures commonly used. There are tribes where the voter registration count exceeds the total census count for people of voting age. Tribal figures are considerably more accurate.

10. Training funds should be committed on a national level to promote a considerable increase in the number of Indian special education teachers. There should also be a great increase in training for paraprofessionals. None of this will work unless there is also a commitment on a regional and local level from universities, hospitals, and diagnostic centers. Indian people also need to be trained in evaluation and testing. A recruitment drive should be started at the high school—and even junior high—level for training in special education and all related fields.

11. Vocational training for handicapped Indians needs to be considerably increased. Given the high unemployment rate in many areas for those who aren't handicapped, this will take imaginative planning and the financial commitment of state and federal agencies. It will also take careful coordination between training institutions and employment planning sections.